

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JANE DOE,

Plaintiff,

Civil No. 23-10053

v.

Honorable Terrence G. Berg

UNITED STATES OF AMERICA,
et al.,

Defendants.

**Federal Defendants' Unopposed Motion for Leave to File Reply in
Support of Motion to Dismiss Under Seal**

Federal defendants United States of America and Merrick Garland, in his official capacity as Attorney General of the United States, by their attorneys, Dawn N. Ison, United States Attorney for the Eastern District of Michigan, and Brittany D. Parling, Assistant United States Attorney, move for an order authorizing them to file portions of the reply in support of their motion to dismiss under seal pursuant to Local Rule 5.3. The grounds for this motion are set forth in the attached brief.

Pursuant to Local Rule 5.3(b)(3)(A)(v), a redacted version of the reply is attached as Exhibit A. Pursuant to Local Rule 5.3(b)(3)(A)(vi), an unredacted version of the reply to be sealed, with proposed redactions indicated by

highlighting, is attached as Exhibit B and filed as a sealed exhibit.

Under Local Rule 7.1(a), the undersigned counsel contacted counsel for Plaintiff and Defendant John Smith on October 25, 2023, who indicated they do not oppose this motion.

Respectfully Submitted,

Dawn N. Ison
United States Attorney

/s/ Brittany D. Parling
Brittany D. Parling (P78870)
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Dated: October 26, 2023

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JANE DOE,

Plaintiff,

Civil No. 23-10053

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Honorable Terrence G. Berg

UNITED STATES OF AMERICA,
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Defendants.

**Brief in Support of Federal Defendants' Unopposed Motion for
Leave to File Reply in Support of Motion to Dismiss Under Seal**

ISSUE PRESENTED

Should the Court permit the federal defendants to file portions of the reply in support of their motion to dismiss under seal in accordance with the Court's prior order providing that this case shall proceed under partial seal (ECF No. 7)?

CONTROLLING AUTHORITY

Local Rule 5.3

At the outset of this case, the Court issued an order permitting Plaintiff Jane Doe and Defendant John Smith to proceed via pseudonym. (ECF No. 7.) Although the Court recognized Plaintiff's heavy burden to overcome the presumption of public access, it concluded that "at least in this early stage of litigation, Plaintiff has met her burden to show that her privacy interests substantially outweigh the public's presumptive and significant interest in knowing who is using its courts." (*Id.*, PageID.81–82.) The Court recognized that information regarding Plaintiff's allegations and her residence have not previously been publicized. (*Id.*, PageID.83.) The Court also observed that Plaintiff's allegations involve the "utmost intimacy," and that the defendants would not be prejudiced by her use of a pseudonym. (*Id.*, PageID.83–85.) Finally, because revealing Defendant Smith's identity could possibly lead to revelation of Plaintiff's identity, the Court also permitted Smith to proceed via pseudonym. (*Id.*, PageID.85–86.)

In addition to permitting the use of pseudonyms, the Court ordered the case to proceed under partial seal. (*Id.*, PageID.87.) The Court further ordered that the defendants are prohibited from publicly disclosing Plaintiff's identity or any personal information that could lead to the identification of Plaintiff by nonparties. (*Id.*) The Court's order requires the parties to seek leave of court to file any documents containing sensitive information that could lead to identification of Jane Doe or John Smith under seal until further order. (*Id.*)

The federal defendants' reply in support of their motion to dismiss includes details regarding the allegations in Plaintiff's unredacted complaint, which has been filed under seal. (ECF No. 1.) The reply also refers to dates and other information that could lead to the identification of Plaintiff or Defendant Smith.

Accordingly, consistent with the Court's order, and pursuant to Local Rule 5.3, the federal defendants seek leave to file portions of the reply in support of their motion to dismiss under seal. Pursuant to Local Rule 5.3(b)(3)(A)(v), a redacted version of the reply is attached as Exhibit A. Pursuant to Local Rule 5.3(b)(3)(A)(vi), an unredacted version of the reply, with proposed redactions indicated by highlighting, is attached as Exhibit B and filed as a sealed exhibit.

Respectfully Submitted,

Dawn N. Ison
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Dated: October 26, 2023

CERTIFICATION OF SERVICE

I hereby certify that on October 26, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record. I further certify that I sent copies of all sealed exhibits to counsel of record by electronic mail.

/s/ Brittany D. Parling

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